

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GEORGE L. ROBINSON,	§
	§
Petitioner Below-	§ No. 17, 2012
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ C.A. No. 96M-01-004
Respondent Below-	§
Appellee.	§

Submitted: February 29, 2012

Decided: April 3, 2012

Before **STEELE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

ORDER

This third day of April 2012, upon consideration of the appellant’s opening brief, the State’s motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, George Robinson, filed this appeal from the Superior Court’s denial of his motion to reopen a 1999 judgment. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Robinson’s opening brief that the appeal is without merit. We agree and affirm.

(2) The record reflects that, on October 9, 1995, Delaware State Police seized \$12,809 in cash from a motor vehicle in which Robinson was a passenger. The State sent a notice of forfeiture for the cash via certified mail to Robinson’s

last known address. The State also published a notice of the forfeiture in the newspaper. Shortly after the publication, Charles Spencer, who is Robinson's grandfather, filed a petition for return of property on January 5, 1996. Ultimately, the action was dismissed on March 3, 1999 for Spencer's failure to prosecute, and the cash was ordered to be forfeited to the State. More than three years later, in October 2002, Robinson filed a motion to vacate the March 3, 1999 order. The Superior Court denied the motion to vacate. This Court affirmed on appeal.¹ In 2011, Robinson moved to reopen the March 3, 1999 judgment, which the Superior Court denied. This appeal followed.

(3) In his opening brief on appeal, Robinson argues that the Superior Court erred in denying his motion to reopen the March 1999 judgment. He asserts that the Superior Court lacked jurisdiction to enter the forfeiture order and that the forfeiture order violated several of his constitutional rights. In response, the State argues that Robinson's latest lawsuit is barred by the doctrine of res judicata.

(4) Under Delaware law, the doctrine of res judicata bars a subsequent action if: (1) the original court had jurisdiction over the subject matter and the parties; (2) the parties to the original action were the same as those parties, or in privity, in the case at bar; (3) the original cause of action or the issue decided was the same as the case at bar; (4) the issue in the prior action was decided adversely

¹ *Robinson v. State*, 2003 WL 1443275 (Del. Mar. 19, 2003)

to the appellant in the case at bar; and (5) the decree in the prior action was a final judgment.²

(5) In this case, contrary to Robinson's attempt to argue otherwise, it is clear that the Superior Court had subject matter jurisdiction over the original petition for return of property, which was dismissed in 1999.³ The Superior Court also had jurisdiction to rule upon Robinson's 2002 motion to vacate its 1999 judgment. The parties to the present action are the same as those in the 2002 action. The cause of action and the issue to be decided is the same in both of Robinson's attempts to vacate the 1999 judgment. The first motion to vacate was decided against Robinson in 2002. The Superior Court's 2002 adjudication was a final order and was affirmed by this Court on appeal. Under these circumstances, we find no abuse of the Superior Court's discretion in refusing to reopen its 1999 judgment.⁴

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

² *Bailey v. City of Wilmington*, 766 A.2d 477, 481 (Del. 2001).

³ *See* DEL. CODE ANN. tit. 16, § 4784(j) (2003).

⁴ *Battaglia v. Wilmington Savings Fund Soc'y*, 379 A.2d 1132, 1135 (Del. 1977).